IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 4444 of 2004(D)

PETITIONER:

P.C. JOSEPH, S/O. P.T. CHERIAN,
M/S. PALATHRA FASHION JEWELLERS,
PATHANAMTHITTA.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD,**
   VAIDYUTHI BHAVAN, THIRUVANANTHAPURAM,
   REPRESENTED BY ITS SECRETARY.

2. **ASSISTANT EXECUTIVE ENGINEER,**
   ELECTRICAL MAJOR SECTION, KSEB,
   PATHANAMTHITTA.

3. **DEPUTY CHIEF ENGINEER,**
   APTS, KSEB, THIRUVANANTHAPURAM.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, KSEB
SRI.C.K.KARUNAKARAN SC., KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.4444/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- C OP ELECTRICITY BILL DT. 18.5.02 AND 18.6.02.

EXT.P2:- COPY OF THE MAHAZAR DT. 25.6.02 PREPARED BY THE OFFICERS OF THE 1ST RESPONDENT.

EXT.P3:- COPY OF THE BILL DT. 27.6.02 AND THE CALCULATION SHEET ATTACHED.

EXT.P3(a):- COPY OF THE LETTER DT. 27.6.02 NO.DB.15/02 -03.

EXT.P4:- COPY OF THE ORDER DT. 15.7.02 IN OP. 19530/02.

EXT.P5:- COPY OF THE ORDER DT. 2.8.1.04 NUMBERED AS APTS/AV/249/02/TVPM /226 ISSUED BY THE 3RD RESPONDENT.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

W.P. (C). NO. 4444 OF 2004

Dated this the 15th day of June, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers.

a) Issue a writ of certiorari or other appropriate writ, order or direction quashing Ext. P3 and P5.

b) Issue a writ in the nature of a declaration declaring that without a change in tariff rate to a higher rate, were additional connected load will not enable imposition of penalty under clause 42(d) of Conditions of Supply of Electrical Energy.

2. As far as penalty for unauthorised connected load is concerned, it is now settled law in view of the Bench decision of this Court in W.A.1231/03 that the penalty has to be limited to the fixed charge portion. It is held that there shall not be any penalty by way of proportionate energy charges. The impugned demands are quashed making it clear that the liability of the petitioner shall only be for the penalty for fixed charge portion. The revised demand shall be issued to the petitioner and the amounts already remitted by the petitioner shall be adjusted.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp